

Before the
Federal Communications Commission
Washington, D.C. 20554

2001 OCT -1 P 4: 26

In the Matter of)

)
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.

(McCall, Idaho and Pinesdale, Montana)

)
)
) MM Docket No. 01-93
) RM-10076

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REPORT AND ORDER
(Proceeding Terminated)

Adopted: September 19, 2001**Released: September 28, 2001**

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Idaho Broadcasting Consortium, Inc. ("IBC"), the Commission has before it for consideration the Notice of Proposed Rule Making, 16 FCC Rcd 8692 (2001), requesting the substitution of Channel 294C1 for Channel 294C2 at McCall, Idaho, reallocation of Channel 294C1 from McCall, Idaho to Pinesdale, Montana, and modification of its authorization for Channel 294C2 to specify operation on Channel 294C1 at Pinesdale. IBC filed supporting comments in which it stated its intention to file an application for Channel 294C1 at Pinesdale.¹ No other comments were received in response to the Notice in this proceeding.

2. Based upon the information presented in this proceeding, we believe the public interest would be served by reallocating Channel 294C1 from McCall, Idaho to Pinesdale, Montana, since it would result in a preferential arrangement of allotments pursuant to the Commission's Change of Community procedures. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). As stated in the Notice, Pinesdale is an independent community located in Ravalli County with a 1990 U.S. Census population of 1,052 people. Pinesdale is an incorporated community with its own post office and zip code (59841). Pinesdale has a Town Meeting form of local government, a water treatment facility, various businesses, a town library and a private school, Pines Academy, serving kindergarten through eighth grade students. Pinesdale would receive its first local service thus fulfilling allotment priority (3) of the Commission's allotment priorities.² This action will not deprive

¹ In response to the Notice, IBC clarifies that in addition to requesting the reallocation of Channel 294C1 to Pinesdale, it is seeking the substitution of Channel 294C1 for Channel 294C2 and modification of its construction permit accordingly (BPH-19971023MD).

² The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time service; (3) First local service; and (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See Revision of FM Assignment Policies and Procedures, 90 FCC Rcd 29 88 (1982).

McCall of local service as Stations KDZY-FM and KMCL-FM are licensed to McCall. Retention of Channel 294C1 in McCall would be considered under priority (4), other public interest matters.

3. The reallocation proposal is consistent with the requirements set forth in Change of Community, *supra*. As stated in the Notice, Channel 294C1 is an unbuilt facility but IBC has specified a site for Channel 294C1 at Pinesdale that is different than the site specified in its construction permit for Channel 294C2 at McCall. Therefore, the reallocation could have theoretical gain and loss areas. Although the Commission has repeatedly stated that the removal of an unbuilt station does not present the same concerns represented by the removal of an operating station, IBC was requested to provide additional information supporting its proposal for McCall and Pinesdale. A staff engineering analysis confirms that service will be provided to 30,472 people in an area of 16,422 square kilometers with a first service being provided to 951 people in an area of 1,348 square kilometers. While there is a theoretical loss area, a staff analysis further confirms that the loss area is adequately served by five or more full-time reception services. Further, our analysis indicates that the reallocation will not remove service from a rural area to serve an urban area as Pinesdale is not located within a U.S. Census Urbanized Area.

4. Channel 241C2 can be allotted to Pinesdale, Montana, in compliance with the Commission's minimum distance separation requirements at IBC's specified site.³ Since Pinesdale is located within 320 kilometers of the U.S.-Canadian border, concurrence of the Canadian Government has been requested for this allotment.⁴ In accordance with Section 1.420(i) of the Commission's Rules, we will modify the authorization for Channel 294C2, McCall, Idaho, to specify operation on Channel 294C1 at Pinesdale, Montana, as its new community of license.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 13, 2001, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

³ The coordinates for Channel 294C1 at Pinesdale are 46-10-07 and 114-17-06.

⁴ Although Canadian concurrence has been requested for the allotment of Channel 294C1 at Pinesdale, notification has not been received. Therefore, operation with the facilities specified for Pinesdale herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1991 Canada-USA FM Broadcast Agreement or if specifically objected to by Canada.

Community	Channel Number
McCall, Idaho	252C1, 266C1
Pinesdale, Montana	294C1

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the authorization of Idaho Broadcasting Consortium, Inc. for Channel 294C2 at McCall, Idaho, IS MODIFIED to specify operation on Channel 294C1 at Pinesdale, Montana, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and,
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Idaho Broadcasting Consortium, Inc., permittee of Channel 294C2, is required to submit a rule making fee in addition to the fee required for the application to substitute Channel 294C1 for Channel 294C2 and change the community of license from McCall, Idaho to Pinesdale, Montana.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions relating to the application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**